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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 JUAN PABLO ORQUIZA, et al.,

2:11-CV-1374 JCM (CWH)

9 Plaintiffs,

10 v.

11 WALLDESIGN, INC., et al.,

12 Defendants.
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14 **ORDER**

15 Presently before the court is defendants Walldesign, Inc. and Michael Bello's motion to
16 dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) filed on September 21, 2011. (Doc.
17 #7). Plaintiffs Juan Pablo Orquiza and Mazimino Buenaventura did not file an opposition to the
18 motion to dismiss, but instead filed an amended complaint on October 7, 2011.

19 "A party may amend its pleading once as a matter of course within . . . 21 days after service
20 of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever
21 is earlier." Fed. R. Civ. P. 15(a)(1)(B).

22 The original complaint in this matter was filed August 25, 2011. As a complaint, a response
23 was required. Thus, plaintiffs had 21 days after being served with the response to amend their
24 complaint as a matter of right. *See* Fed. R. Civ. P. 15(a). Defendants filed their motion to dismiss
25 (pursuant to Rule 12(b)) on September 21, 2011. Plaintiffs amendment was filed on October 7,
26 2011, within the 21 day period set forth by Rule 15(a)(1)(B). As such, defendants' motion to dismiss
27 is moot, because it seeks to dismiss a complaint that has been supplanted by the filing of a first
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1 amended complaint.

2 Accordingly,

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that defendant's motion to
4 dismiss (doc. #7) be, and the same hereby is, DENIED AS MOOT.

5 DATED October 19, 2011.

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8 **UNITED STATES DISTRICT JUDGE**